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## MEDIA RELEASE

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**Investigation Ref:** CCM/INV/006

### **DECISION OF COMMISSIONERS ON INVESTIGATION ON POSSIBLE COLLUSION IN THE MARKET FOR SECONDARY BOOKS.**

The Commissioners of the Competition Commission of Mauritius (CCM) have on the 9<sup>th</sup> May 2011, produced their decision concerning the investigation on the possible collusion in the market for secondary school books. The Investigation (INV 006) was launched by the Executive Director of the CCM in July 2010. The Commissioners have endorsed the findings of the Executive Director and have unanimously decided that no financial penalties shall be imposed on the parties and no directions shall be issued as the parties have not breached the provisions of Competition Act 2007.

The investigation on possible collusion in the market for secondary books focused on whether Editions Le Printemps Ltd (ELP) and Editions de L'Océan Indien (EOI) may be colluding to fix the wholesale trade discount rates offered to bookshops as such practices may be in breach of Section 41 of the Competition Act 2007. The investigation also considered whether there is a tacit collusion between the parties, in breach of Sec 46 of the Act.

From the analysis of the data received from the parties and the investigation as a whole, it has been seen that the discount rates offered to bookshops by ELP and EOI differ. The CCM has also not found any evidence of communication or agreement by the importers pertaining to fixing of trade discount rates. Therefore, in the absence of evidence of collusion between the parties, the executive director has concluded that there has not been a breach of Section 41 of the Act by ELP, EOI or any of the other importers.

The CCM also came to the conclusion that although this does not appear to be a market characterized by vigorous competition, the evidence also does not support a finding of tacit collusion between EOI and ELP. The CCM therefore concluded that there has been no breach of Section 46 of the Act.

The CCM produced its Final Report for this investigation in March 2011. The parties decided not to request for a hearing, to which they were entitled to under section 55 of the Act. The Commissioners therefore took their decision based on the report by the Executive Director.

Dr. Sean Ennis, Executive Director said “During this investigation, various people were interviewed and data was gathered from the main parties and others. The parties have been cooperative all along this investigation and this sped the resolution of this case. It is important for parties under investigation to understand that a cooperative approach makes things easier for everyone and it helps us to understand the markets and industry better. Ultimately, the final report produced by the Executive Director is a report which presents the views of all parties. Therefore it is in the interest of all parties to come forward with their views and comment on the provisional report we send them before producing a final report. This will provide the Commissioners with a more balanced view when they are making their decisions on each case.”

“In this particular case, we did not find evidence to support a breach of section 41 of the Act (collusive agreements) as we saw from the data gathered that the discount rates offered by ELP and EOI to other bookshops differ. However, we are concerned that there is a lack of competition in this market, at the bookseller level. Booksellers seem to be unwilling to compete on prices even though there is no obligation on them to charge the recommended retail price by importers. They charge the recommended price, all then making margins at the level determined by the discounts. Booksellers achieving a higher discount do not charge a lower price, nor are we aware of any bookseller seeking to gain sales by cutting prices, even by a small amount. Whilst this may reflect established practice in the market over the years rather than any specific breach of the Act, there is no obvious manner in which the CCM intervention can make market participants behave more competitively. The secondary books market is an important one as all families in Mauritius, at some point have little alternative but to purchase these books. In view of my powers as Executive Director to keep the operation of markets in Mauritius and the conditions of competition in markets under constant review, the CCM will continue to monitor this market, with a focus at the bookseller level.”

#### **Background for editors:**

##### ***The Competition Act***

The Competition Act 2007 came fully into effect on November 25th 2009, and is enforced by the Competition Commission of Mauritius, the CCM. Sub-parts I of Part III of the Competition Act 2007, cover restrictive practices described under ‘Collusive agreements’.

To take action, the CCM must find that the conduct of enterprises in a particular market forms collusive agreements and restricts, prevents or distorts competition. Where the Executive

Director has reasonable grounds to believe that collusion is occurring, he may launch an investigation.

***Collusive Agreements:***

Section 41 to 43 of the Competition Act, prohibit agreements between enterprises, which are considered collusive, unless excluded under the Act. An “agreement” may be in any form, whether or not legally enforceable and includes an oral agreement, a decision by an association of enterprises and any concerted practice. A Concerted practice means “a practice involving contacts or communications between competitors falling short of an actual agreement but which nonetheless restricts competition between them.”

An agreement is considered collusive under the Competition Act 2007, if it exists between enterprises that supply or acquire goods and services of the same description; prevents, restricts or distorts competition and the object and effect of which is, in any way, to:

- Fix the selling or purchase price of goods and services;
- Share markets or sources of supply of the goods and services;
- Restrict the supply or acquisition of the goods or services

The CCM takes the view that, in most markets, free competition is an effective guarantor of the interests of consumers and is likely best to promote the efficiency, adaptability and competitiveness of the economy of Mauritius. Significant weakening of competition will therefore have adverse effects.

Consequently, if the CCM finds evidence of behaviour that is preventing, restricting or distorting competition, on the part of enterprises that have collusive agreements, it will normally expect that such behaviour will have adverse effects on consumers or the economy as a whole.

Following an Investigation, the CCM has the power to force changes in company behaviour and will consider behavioural undertakings offered by the investigated party or parties, including financial penalties.

***Further information:***

For further information see the CCM’s website at [www.ccm.mu](http://www.ccm.mu), and the CCM’s Procedural Rules and Guidelines: ‘[CCM 1 - Procedural Rules](#)’, ‘[CCM 3 - Collusive agreements](#)’ and ‘[CCM 6 - Remedies and Penalties](#)’, all available on the web site.